

1 **McAVOY AMAYA & REVERO, ATTORNEYS**
2 MICHAEL J. MCAVOYAMAYA, ESQ. (14082)
3 TIMOTHY E. REVERO, ESQ (14603)
4 1100 E. Bridger Ave.
5 Las Vegas, NV 89101
6 Telephone: 702.685.0879
7 Facsimile: 702.995.7137
8 Mike@mrlawlv.com
9 *Attorneys for Defendant*

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 * * * *

13 JAVIER CABRERA, an individual; DEBORAH
14 MILLER, an individual; CHERIE MANCINI, an
15 individual; and the NEVADA SERVICE
16 EMPLOYEES UNION STAFF UNION
17 (“NSEUSU”), an unincorporated association,

18 CASE NO.: 2:18-cv-304-RFB-DJA

19 Plaintiff,

20 vs.

21 SERVICE EMPLOYEES INTERNATIONAL
22 UNION (“SEIU”), a nonprofit corporation; *et al.*

23 **RESPONSE TO DEFENDANTS’
24 MOTION FOR NEW TRIAL DATE**

25 Defendants.

26 Plaintiff, DEBORAH MILLER, by and through MICHAEL J. MCAVOYAMAYA, Esq.
27 and MCAVOY AMAYA & REVERO ATTORNEYS hereby files this Response in Opposition to
28 Defendants’ Motion for New Trial Date.

29 This Response is based on the papers and pleadings filed herein, the memorandum of points
30 and authorities attached hereto, and any oral argument deemed necessary at the time of hearing of
31 this motion.

32 DATED: the 29th day of June, 2023

33 /s/ Michael J. McAvoy-Amaya

34 MICHAEL J. MCAVOYAMAYA, ESQ.
35 Nevada Bar No.: 14082
36 Counsel for Plaintiff

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2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. ARGUMENT.**

4 **A. Standard Of Review.**

5 “A motion to extend deadlines in the Court’s scheduling order must be supported by a
6 showing of “good cause” for the extension. The good cause inquiry focuses primarily on the
7 movant’s diligence.” *DeRosa v. BLOOD SYSTEMS, INC.*, No. 2: 13-cv-0137-JCM-NJK *1 (D.
8 Nev. Aug. 1, 2013). Federal Rule of Civil Procedure 5(b)(2)(E) provides that service of a paper is
9 completed by “sending it by electronic means if the person consented in writing—in which event
10 service is complete upon transmission.” Fed. R. Civ. P. 5(b)(2)(E). Local Rule 26-4 provides that
11 all Motions to extend discovery deadlines must “be supported by a showing of good cause for the
12 extension.” *See LR 26-4*. Further, “[a] motion or stipulation to extend a deadline set forth in a
13 discovery plan must be received by the court no later than 21 days before the expiration of the
14 subject deadline,” otherwise the request must also be supported by a showing of excusable neglect.
Id. see also LR IA 6-1.

15 **B. Defendants Have Not Established Good Cause To Extend The Date For Trial.**

16 Defendants’ Motion for a new trial date fails to cite any law in support of the request to
17 move the trial date in this matter, which has been awaiting trial since 2020. Defendants assert that
18 a key witness, Luisa Blue, has some “pre-scheduled and pre-paid event” lasting an entire month
19 from mid-September to mid-October. Defendants fail to explain what that event is, why it cannot
20 be postponed or missed, and has failed entirely to explain why there is good cause to extend this
21 long awaited trial date to accommodate Ms. Blue. As such, having failed to meet the good cause
22 standard this Court should deny the motion.

23 **CONCLUSION**

24 Based on the foregoing, Plaintiff requests that the Motion for New Trial Date be denied.

25 DATED: the 29th day of June, 2023

26
27 /s/ Michael J. McAvoy-Amaya
28 MICHAEL J. MCAVOYAMAYA, ESQ.
Nevada Bar No.: 14082

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of June, 2023, the undersigned served the foregoing **PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR NEW TRIAL** **DATE** on all counsel herein by causing a true copy thereof to be filed with the Clerk of Court using the CM/ECF system, which was served via electronic transmission by the Clerk of Court pursuant to local order.

CHRISTENSEN JAMES & MARTIN
EVAN L. JAMES, ESQ. (7760)
KEVIN B. ARCHIBALD, ESQ.
(13817)
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
Telephone: (702) 255-1718
Facsimile: (702) 255-0871
Email: elj@cjmlv.com,
kba@cjmlv.com
Attorneys for Defendants

ROTHNER, SEGALL &
GREENSTONE
GLENN ROTHER (PRO HAC VICE)
JONATHAN COHEN (10551)
510 South Marengo Avenue
Pasadena, CA 91101-3115
Tel: (626) 796-7555
Facsimile: (626) 577-0214
Email: grothner@rsglabor.com,
jcohen@rsglabor.com
Attorneys for Defendants

Dated this 29th day of June, 2023.

/s/ Michael J. Mcavoyamaya

MICHAEL MCAVOYAMAYA, ESQ.